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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,)
10)
11 Plaintiff,) 03:02-CR-00113-LRH (VPC)
12 vs.) ORDER RE LIMITED REMAND FOR
13 DAVID DOUGLAS AVERY,) RESENTENCING
14 Defendant.)

15 This action has been remanded for the limited purpose of determining whether the sentence
16 originally imposed would have differed materially had the sentencing court been aware that the
17 United States Sentencing Guidelines were advisory. Upon review of the Presentence Investigation
18 and Report and related sentencing pleadings, the court is not aware of any grounds for the sentence
19 originally imposed to have been any different under advisory guidelines. However, as this Defendant
20 was sentenced by another district judge, the Defendant is entitled to a full resentencing hearing. *See,*
21 *United States v. Sanders*, 421 F.3d 1044, 1052 (9th Cir. 2005).

22 A telephonic status conference is hereby set for January 19, 2006, at 11:00 a.m. Counsel for
23 the Defendant shall forthwith consult with the Defendant and with counsel for Plaintiff United
24 States, and shall be prepared at the status conference to advise the Court whether the Defendant
25 wishes to have a de novo sentencing hearing. If he desires a full resentencing hearing, he will be
26 entitled to return to this jurisdiction or he may waive his personal presence and attend telephonically.

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1 If the Defendant elects to waive further review of the original sentence, a written waiver
2 bearing the signature of the Defendant and the Defendant's counsel shall be filed with the Court, the
3 status conference may be vacated, and the Defendant's original sentence will be reimposed.

4 DATED this 11th day of January, 2006.

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8 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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